

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Confirmation No. 5255**
Yumiko ABE et al. : Attorney Docket No. 2004_0399A
Serial No. 10/798,441 : Group Art Unit 2154
Filed March 12, 2004 : Examiner Jean, Frantz B.
COMMUNICATION SYSTEM : **Mail Stop: Petition**

PETITION TO WITHDRAW
HOLDING OF ABANDONMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In a NOTICE OF ABANDONMENT mailed April 29, 2008 and received April 30, 2008, Examiner Frantz B. Jean has advised that a timely reply to the Office Action mailed September 25, 2007 has not been received, and thus the above-identified application has become abandoned. From the information contained in PAIR, it was discovered that the Office Action was mailed on September 25, 2007. In reply, as per the practice outlined in 37 CFR 1.181 and MPEP 711.03(c), please note the following facts:

The undersigned, an attorney in the firm of Wenderoth, Lind & Ponack, L.L.P., has searched the relevant records of his office and has concluded that the Office Action of September 25, 2007 was never received.

In this regard, when an Official Action is received, it is first docketed for action by Pamela Veazey, the chief docket clerk of the firm, in a computerized database which is maintained by her for this purpose.

A copy of the relevant pages, i.e., a printout of Ms. Veazey's computerized docket for December 25, 2007, i.e. the due date for response, is submitted herewith as **Exhibit "A"**.

As can be seen, there is no reference to the subject application on this printout, in particular docket pages 12 and 13.

Likewise, Jeffrey R. Filipek, the initial attorney of record, maintains a personal docket, and a copy of the page for the month of December, 2007, is enclosed as **Exhibit "B"**. Upon receiving an Office Action, the internal docket number and the name of the first inventor are entered on the response due date. Again, as can be seen from the enclosed copy, no reference to this application was entered on the due date of December 25, 2007.

A search of the WL&P file jacket also indicates that the Office Action was not received since reference to outstanding Official Actions would normally be entered on the face of the file by the chief docket clerk. A copy of the relevant portion of the face of the file is enclosed as **Exhibit "C"**.

The foregoing facts are delivered to constitute a *prima facie* indication that the Official Action was never received by Wenderoth, Lind & Ponack, L.L.P., since the present application would have been listed on the various docket pages and application file jacket had it been received.

The foregoing facts are considered sufficient to restore this application to active status by withdrawing the holding of abandonment, remailing the Office Action, and setting a new date for response. An early indication to this effect is respectfully requested.

Respectfully submitted,

Yumiko ABE et al.

/Andrew L. Dunlap/

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May 21, 2008